

Significant Legislative Rule Analysis
WAC 246-935-050
A Rule Concerning Animal Health Care Tasks
May 21, 2015

Describe the proposed rule, including a brief history of the issue, and explain why the proposed rule is needed.

The Veterinary Board of Governors (board) is proposing an amendment to increase the level of supervision required for the administration of rabies vaccinations by veterinary technicians and unregistered assistants from indirect supervision by a veterinarian to direct supervision by a veterinarian. The proposal also clarifies that rabies certificates are part of the medical record and creates a requirement for veterinarians to collect specified information about the administration of the vaccine.

The board is proposing this amendment for two reasons:

- There is a conflict between rules of the board and rules of the Department of Agriculture (WSDA) regarding the level of supervision required when a licensed veterinary technician or unregistered assistant administers a rabies injection. Although board WAC 246-935-050(4)(g) authorizes veterinary technicians to administer biologic injections (vaccines) under indirect supervision of a licensed veterinarian, authority given to the Washington State Department of Agriculture (WSDA), under RCW 16.36.020 authorizes the WSDA to regulate the sale and use of veterinary biologics, including rabies. Department of Agriculture WAC 16-42-026 restricts biologics, including rabies, to the purchase, administration or use by or under the direct supervision of licensed veterinarians. The proposed rule will align the board's rule with the WSDA's rule.
- Although most veterinarians have been issuing rabies certificates as a normal "best practice", the rule creates a requirement for veterinarians to record specific information about the vaccine, which makes the issuance of certificate an enforceable requirement.

Is a Significant Analysis required for this rule?

Yes, as defined in RCW 34.05.328 the agency must prepare a significant analysis on the proposed rule.

Clearly state in detail the general goals and specific objectives of the statute that the rule implements.

The Veterinary Board of Governors has authority to adopt rules necessary to carry out the purposes of chapter 18.92 RCW related to the practice of veterinary medicine and surgery, including the performance of the duties and responsibilities of veterinary technicians and veterinary medication clerks. The proposed rule provides clear and concise direction to veterinarians, licensed veterinary technicians and unregistered assistants regarding the

administration of rabies vaccine and applicable record keeping requirements pertaining to the vaccine.

Explain how the department determined that the rule is needed to achieve these general goals and specific objectives. Analyze alternatives to rulemaking and the consequences of not adopting the rule.

Veterinary technicians and unregistered assistants can only perform those animal health care tasks authorized by rule and delegated by the supervising veterinarian, and only if qualified to perform the task. Animal health care tasks may only be adopted by rule making. Clarifying the required level of supervision for the administration of the rabies vaccine and requiring veterinarians to collect information about the administration of the vaccine in their medical records will make these actions enforceable. Therefore, there is no effective alternative to rule making.

Explain how the department determined that the probable benefits of the rule are greater than the probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented.

WAC 246-935-050 Animal Health Care Tasks

Description of the proposed rule:

The Veterinary Board of Governors (board) is proposing an amendment to increase the level of supervision required for the administration of rabies vaccinations by veterinary technicians and unregistered assistants from indirect supervision by a veterinarian to direct supervision by a veterinarian. The proposal also clarifies that a rabies certificate is part of the medical record and creates a requirement for a veterinarian to collect specified information about the administration of the vaccine.

Cost/Benefit Analysis:

This rule may have an impact on veterinary practices. To clarify part of this analysis, definitions from WAC 246-935-010 are provided:

- "Direct supervision" means the veterinary supervisor is on the premises, is quickly and easily available and the animal patient has been examined by a veterinarian at such times as acceptable veterinary medical practice requires, consistent with the particular delegated animal health care task.
- "Indirect supervision" means the supervisor is not on the premises, but has given either written or oral instructions for treatment of the animal patient and the animal patient has been examined by a veterinarian at such times as acceptable veterinary medical practice requires,

consistent with the particular delegated animal health care task and the animal patient is not anesthetized.

Currently, many veterinarians allow their licensed technicians and unregistered assistants to administer rabies vaccines under indirect supervision in accordance with the current rule. If there are facilities where veterinary technicians administer these vaccines when a veterinarian is not on site, the rule change will create an inconvenience to the supervising veterinarian and impose some cost. However, the board believes that this scenario will not occur in most circumstances.

The board estimates that it takes approximately five minutes to record the required information about the vaccine into the medical record. Although this does not seem like a significant amount of time, this aspect of the rule could have a cumulative effect on many veterinarians.

The clarification of direct supervision may ease some of the following stakeholder concerns regarding the veterinarian being physically present to observe the vaccination:

- A veterinary technician working at an animal shelter commented: “Requiring a veterinarian to be present for these vaccinations will place a financial hardship on our non-profit rescue organization. The Dr’s time is limited, and in addition to the routine exams, he is dealing with cats with medical issues and health concerns. We prefer to not use his precious time observing vaccinations being given when there are always more pressing needs for his time.”
- Another veterinary technician commented that in her experience as a former board member, discussion on this subject suggested that “...a veterinary technician could be directed to administer a biological agent under indirect supervision. Veterinarians are responsible for knowing the abilities of their veterinary technicians and should have the discretion to delegate vaccine administration, whether IM, IN or SQ injection under indirect supervision. Financial hardship could result if requiring direct supervision by veterinarians for veterinary technicians to perform this task.”
- A board member commented: While I understand the premise behind this, I am fully confident in my technicians' ability to administer a subcutaneous injection and do not feel it necessary for me to be in the room. I agree with unlicensed assistants being limited in this administration to the direct supervision of a veterinarian.

The benefit of the rule is it will make the board’s rules consistent with the Washington State Department of Agriculture rules (WAC 16-42-026 Restricted products), which currently require direct supervision when administering rabies vaccines. Also, the public will have additional assurance that the rabies vaccines may only be administered under the direct supervision of veterinarians licensed under chapter 18.92 RCW. A final benefit is that veterinarians and pet owners will have the information about the rabies vaccine included in their pet’s medical records, which could prevent issues with scheduling and carrying out future vaccine administrations.

The benefit of increased public protection regarding issuing and recording required information about rabies vaccines coupled with consistency with the WSDA's rules outweigh these rule costs. Therefore, the total probable benefits of the rule exceed the total probable costs.

Identify alternative versions of the rule that were considered, and explain how the department determined that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives state previously.

The board opted to bring the rule into compliance with the WSDA rule related to the level of supervision required for biologics to treat stated diseases.

Determine that the rule does not require those to whom it applies to take an action that violates requirements of another federal or state law.

The rule does not require those to whom it applies to take an action that violates requirements of federal or state law.

Determine that the rule does not impose more stringent performance requirements on private entities than on public entities unless required to do so by federal or state law.

The rule does not impose more stringent performance requirements on private entities than on public entities.

Determine if the rule differs from any federal regulation or statute applicable to the same activity or subject matter and, if so, determine that the difference is justified by an explicit state statute or by substantial evidence that the difference is necessary.

The rule does not differ from any applicable federal regulation or statute.

Demonstrate that the rule has been coordinated, to the maximum extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter.

Yes, the rule is coordinated to the maximum extent practicable with other applicable laws.